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No. 40] NEW DELHI, SATURDAY, OCTOBER 5, 1968/ASVINA 13, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़ कर)
केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक दस्तावेजों और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

ORDER

New Delhi, the 29th August 1968

S.O. 3467.—Whereas the Election Commission is satisfied that Shri Gonchu Poku, a contesting candidate for election to the House of the People from Bastar constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Gonchu Poku to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. MP-HP/17/67.]

By Order,

K. S. RAJAGOPALAN, Secy.

CENTRAL BOARD OF DIRECT TAXES**CORRIGENDUM***New Delhi, the 16th September 1968*

S.O. 3468.—In exercise of the powers conferred by sub-section (1) of Section 121 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes, hereby direct that in its Notification No. 77-Income-tax, dated 2nd September 1968, the following amendment shall be made—

for This notification shall take effect from 1st August, 1968.

read This notification shall take effect from 16th September, 1968.

[No. 87 (F. No. 55/295/68-I.T.A. III.)]

N. SRIRAMAMURTY, Under Secy.

MINISTRY OF IRRIGATION & POWER*New Delhi, the 23rd September 1968*

S.O. 3469.—In exercise of the powers conferred by sub-section (i) of Section 36 of the Indian Electricity Act, 1910, the Central Government, hereby appoint the Director (Commercial), Central Water and Power Commission (Power Wing) to be the Central Electrical Inspector in respect of all works and electrical installations belonging to or under the control of the Union Territory of Goa, Daman and Diu.

[No. EL.II-3(3)/63.]

M. S. PATIYAK, Under Secy.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION**(Department of Labour and Employment)***New Delhi, the 21st September 1968*

S.O. 3470.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby passes the following award of the Industrial Tribunal (No. 2) Dhanbad, in the industrial dispute between the employers in relation to the South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad and their workmen, which was received by the Central Government on the 17th September, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD**

PRESENT

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 99 OF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad.

AND

Their workmen.

APPEARANCES:

For the employers:—Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery Owners' Association.

For the workmen:—Shri S. Das Gupta, Secretary, Colliery Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

*Dhanbad, 13th September, 1968**22nd Bhadra, 1890 Saka.*

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad and their workmen, by its order No. 2/142/65-LR-II, dated 13th January, 1966, referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the management of South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad was justified in refusing employment as trammers to the following workmen from the dates mentioned against their names? If not, to what relief, the said workmen are entitled?"

1. Shri Sukhdeo Passi, Trammer—28th August, 1965.

2. Shri Chitranghnandan Pandit, Trammer—17th September, 1965".

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 9, of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LR-II, dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 99 of 1967. Employers as well as the workmen filed their statement of demands.

3. The case of the workmen is that Sarvashree Sukhdeo Passi and Chitranghnandan Pandit (hereinafter referred to as the affected workmen) were trammers in 15th seam of South Govindpur Colliery of the employers, that some time during the later part of September, 1965 there was a break-down in the boiler owing to which both the affected workmen were stopped from work verbally till the boiler was repaired, that affected workmen, however, continued to report for work daily but the management did not arrange either to mark their attendance or to provide them with alternative employment, that there was plenty of work for the affected workmen yet the employers refused it to them and recruited new hands and that the action of the employers was nothing short of victimisation of the affected workmen for their trade union activities. The employers filed their statement denying flatly that the affected workmen were stopped from work from the respective dates mentioned in the reference. According to them affected workman No. 1, Shri Sukhdeo Passi himself had stopped coming to the colliery for work on and from 28th August, 1965 and that workman No. 2, Shri C. Pandit also stopped coming for work on and from 17th September, 1965. It is pointed out that affected workman No. 2 came to the colliery for 4 days in the month of October, 1965, worked in 14th seam as general mazdoor and thereafter did not come to work at all. In the rejoinder filed by them the employers further pleaded that affected workman No. 1, Shri Sukhdeo Passi stopped coming for work on and from 19th September, 1965, that after his unauthorised absence for about a month he came and worked for 2 days in October and that he left the colliery thereafter. The workmen were represented by Shri S. Das Gupta, Secretary, Colliery Mazdoor Sangh and the employers by Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery Owners' Association. On behalf of the workmen a witness was examined. The employers examined a witness and marked Exts. M1(a), M1(b) and W.1.

4. In terms of reference the two affected workmen, Shri Sukhdeo Passi and Shri C. Pandit were refused employment by the employers on and from 28th August, 1965 and 17th September, 1965 respectively. While admitting that the two affected workmen were trammers working in their South Govindpur Colliery the employers have flatly denied that the two affected workmen were refused employment with effect from the dates alleged in the reference. But in view of the decisions of the Supreme Court in *Delhi Cloth and General Mills Co. Ltd. v. their workmen and others* (1967-1-L.L.J 423) the Tribunal cannot widen the scope of the enquiry beyond the terms of reference and the parties cannot be allowed to challenge the very basis of issue set forth in the order of reference. Thus, the only point remaining for consideration is whether the refusal on the part of the employers employment to the two affected workmen with effect from the dates mentioned in the reference was justified. It will not be within the scope of enquiry to find out from what dates the two affected workmen were refused employment by the

employers if not from the dates mentioned in the reference. According to the employers the two affected workmen voluntarily absented themselves for work and as such there could not be any question of refusing them work by the employers. In support they have examined Shri B. H. Thacker, MW. 1. He is the Manager of South Govindpur Colliery since 1960. According to him affected workman No. 1, Shri Sukhdeo Passi worked in the colliery intermittently upto the week ending 28th October, 1965 and affected workman No. 2, Shri C. Pandit also intermittently upto the week ending 9th October, 1965 and stopped work thereafter voluntarily. In his support he has produced the attendance registers concerning the two affected workmen and marked extracts from then Ext. M. 1(a) relating to affected workman No. 1, Shri Sukhdeo Passi and Ext. M. 1(b) relating to affected workman No. 2, Shri C. Pandit. He denied emphatically that the management had stopped the two affected workmen from working or that they did so owing to their trade union activities. The witness was subjected to a lengthy and searching cross-examination but nothing is elicited to effect adversely the evidence tendered by him. He stated that it was not necessary for the Manager to sign the attendance registers and that the eight attendance registers were signed by the attendance clerk at the end of each week in accordance with the practice. He also deposed that no disciplinary action was taken against either of the affected workmen for absenting without permission because most of the workmen in the colliery did so. It is elicited from the witness that it was true that even in the cases of the workmen who absented themselves without permission continuously for a month and more they were permitted by the Manager to resume duty without any action being taken against them. Ext. W. 1 admitted by MW. 1 is a copy of the letter to the Secretary, Colliery Mazdoor Sangh from the Regional Labour Commissioner(C) Dhanbad dated 24th May, 1968. It speaks about the various prosecution cases launched against the management of South Govindpur Colliery and it has no bearing on the point under consideration. The workmen have examined only one witness, WW 1, the President of the branch union at South Govindpur Colliery. He was also a workman in the colliery upto 9th October, 1965. Against the dates 28th August, 1965 and 17th September, 1965 mentioned specifically in the reference the witness says that both the affected workmen were made idle from 8th October, 1965, when both of them were working in 15 top seam. It follows that on the dates mentioned in the reference and for more than a month thereafter the two affected workmen were working in 15 seam under the employers. He says that the employers made the two affected workmen idle because they were members of his union and also because of their trade union activities. It was not difficult for the witness, who is the President of the branch union, to produce the membership registers and also office copies of the letters to substantiate his oral testimony. But he did not chose to do so. The witness, WW 1 has conceded that neither of the two affected workmen was an office bearer either at the branch or Central office. If so, no convincing reason is shown why the employers should chose to victimise ordinary members without touching the office bearers for the trade union activities of the union. No particular trade union activity of either of the two affected workmen is given as an instance owing to which they had to incur the displeasure of the employers. In short, there is absolutely no evidence to rebut the evidence of MW. 1 supported by the attendance registers and their extracts M1(a) and M1(b) stating that the two affected workmen had stopped coming for work voluntarily from the dates other than those mentioned in the reference and that the employers had never refused them employment. The evidence of the solitary witness examined by the workmen is contrary even to the terms of reference and is of no help to establish the case set forth by the workmen. No explanation is forthcoming why neither of the two affected workmen should chose not to appear before the Tribunal and give evidence. Under these circumstances, I am constrained to decide the reference against the workmen. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer,

Central Government Industrial Tribunal (No. 2), Dhanbad.

[No. 2/142/65-I.R.-II]

New Delhi, the 23rd September 1968

S.O. 3471.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2) Dhanbad, in the industrial dispute between the employers in relation to the Bhowrah Colliery of Messrs Bhowrah Kankane Collieries Limited, Post Office Bhowrah, District Dhanbad and their workmen, which was received by the Central Government on the 17th September, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD

PRESENT :

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 110 OF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the Bhowrah Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowrah, District Dhanbad.

AND

Their workmen.

APPEARANCES:—

For the employers: Shri K. C. Nandkeolyar, Deputy Chief Personnel Officer.

For the workmen: Shri Ram Mitra, Bihar Koyla Mazdoor Sabha.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 10th September, 1968

19th Bhadra, 1890 Saka.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Bhowrah Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowrah, District Dhanbad and their workmen, by its order No. 2/17/66-LR-II, dated 22nd February, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the dismissal of Shri Subedar Kurmi, Pick Miner, and Shri Jadunandan Dubey, Chute Operator, with effect from the 4th July, 1965 and 27th July, 1965 respectively by the Management of Bhowrah Colliery of Messrs Bhowrah Kankanee Collieries Limited was justified? If not, to what relief are the workmen entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 31 of 1966 on its file. Workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LR-II dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 110 of 1967. Employers filed their statement of demands.

3. The case of the workmen in brief is this: Shri Subedar Kurmi and Shri Jadunandan Dubey (hereinafter referred to as the affected workmen Nos. 1 & 2 respectively) were the workmen in the employers colliery. The first affected workman was the Vice President of Bihar Koyla Mazdoor Sabha at the colliery branch. He being a very popular trade union worker was disliked by the management of the colliery. Previously on two occasions the management had dismissed him but on the intervention of the Conciliation Officer (C) Dhanbad II the management had to reinstate him. In the month of April 1965 he along with others submitted a joint petition to the colliery Manager demanding payment for lead and lift and minimum guaranteed wages as per the Coal Award. On this the management began to coerse and threaten him. The Chief Mining Engineer did not take any action against the management in spite of the fact being brought to his notice. In the same continuation the management issued two charge-sheets, Nos. 80/65/N and 100/65/N, but nothing was proved against him during the enquiry. On 3rd July, 1965, the management issued again a charge-sheet No. 151/65/N with false allegations. Affected workman No. 1 submitted his reply to the charge-sheet denying the allegations. The management held a fake enquiry which was not proper and impartial nor was the affected workman No. 1 given any opportunity to cross-examine the management's witnesses. During the enquiry affected workman No. 1 had to withdraw himself from the enquiry several times

complaining against the Enquiry Officer. As a result of an improper enquiry the management dismissed affected workman No. 1 on the basis of perverse finding with a view to get rid of him and thus victimised him due to his lawful trade union activities. The management did not issue him even a written dismissal order properly approved by the Agent or Chief Agent. As regards affected workman No. 2 it is stated that he went on leave for 16 days with effect from 10th May, 1965 to 27th May, 1965. While he was at his native home he fell seriously ill and as such, on 24th May, 1965 sent a registered letter to the management praying for extension of his leave. After recovery from illness he reported for duty on 15th July, 1965 along with certificates granted by the Medical Officer and Gram Panchayet Mukhya. On 16th July, 1965 the management issued a charge-sheet and thereafter held a fake enquiry and dismissed him with effect from 27th July, 1965. The dismissal order was not approved by the Chief Agent nor was affected workman No. 2 found guilty of any offence for which the management could dismiss him. In the written statement filed by them the employers admitted that the 2 affected workmen were their employees. According to them affected workman No. 1 was found robbing the sides of a pillar of the 12th level rise on 2nd July 1965 in the first shift by the Assistant Manager and the Incharge. Affected workman No. 1 was issued a charge-sheet on 3rd July, 1965 for his acts on 2nd July, 1965. On denial by him the management held an enquiry on 9th July, 1965 with prior notice. The enquiry was held by Shri K. C. Nandkeolyar. Affected workman No. 1 withdrew from the enquiry. After exchange of some letters between the management and affected workman No. 1 the management had the enquiry conducted *de novo* by Shri B. M. Lall, Labour Welfare Officer, in which affected workman No. 1 fully participated and cross-examined the witnesses of the management. The Enquiry Officer, Shri B. M. Lall found the charges as established and submitted his report. The Manager recommended dismissal of affected workman No. 1 and the Agent accorded his approval and then a letter of dismissal dated 7th August, 1965 was issued and served on affected workman No. 1. He was dismissed with effect from 4th July, 1965 as due to delatory tactics the enquiry was delayed and protracted. The employers denied knowledge whether affected workman No. 1 was a member or a Vice President of the Union. On previous occasions also action was taken by the management against affected workman No. 1. But these actions were modified when approached to directly or through the Industrial Relations Machinery. As regards affected workman No. 2 the employers pleaded that when he did not report for duty on 28th May, 1965 or within 8 days thereafter he had lost lien on his appointment automatically. In spite of it the employers gave him a charge-sheet, made a proper enquiry and dismissed him. The workmen were represented by Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha and the employers by Shri K. C. Nandkeolyar, Deputy Chief Personnel Officer. By consent of parties Exts. M 1 to M 36 for the employers and Exts. W 1 to W 3 for the workmen were marked. On behalf of the workmen 2 witnesses were examined and Exts. W 4 to W 7 were marked. The employers examined 3 witnesses and marked Exts. M 37 to M 51.

4. In terms of the reference affected workman No. 1 was dismissed with effect from 4th July, 1965 and the case of the employers is that he was dismissed as a result of a domestic enquiry into the charge-sheet, Ext. M 1 issued to him on 3rd July 1965. The charge-sheet, Ext. M 1 alleged that affected workman No. 1 was found robbing the sides of a pillar on 2nd July, 1965 in the first shift in the 12th level rise being driven for connecting haulage road to the travelling road and that thereby he had contravened Regulations No. 115(1) and 36(1)(3) of the Coal Mines Regulations, 1957, and committed a misconduct in terms of order No. 27(19) of the Certified Standing Orders, Ext. M 49. The explanation submitted by affected workman No. 1 to the charge-sheet is Ext. M 2, wherein he denied the allegation. Admittedly, the domestic enquiry was at first conducted by Shri K. C. Nandkeolyar, the Deputy Chief Personnel Officer, who was the Welfare Officer in the colliery in 1965. These enquiry proceedings are Exts. M 37 to M 46. It is also admitted by the employers that during the enquiry by Shri K. C. Nandkeolyar, affected workman No. 1 complained to the management against Shri Nandkeolyar and as a result a *de novo* enquiry was ordered by the management and it was conducted by Shri B. M. Lall also a Labour Welfare Officer, who is examined as MW. 2. Shri B. M. Lall, MW. 2 has proved his enquiry report, Ext. M 50 and stated categorically that during the enquiry conducted by him no party produced any witness or document. The statement of Shri B. M. Lall, MW. 2 is further supported by the fact that no statement of any witness recorded by him or any documents produced before him or proceedings drawn by him on any of the three days of his enquiry is brought on record and marked as exhibits. In his report, Ext. M 50 Shri B. M. Lall, MW. 2 has discussed the evidence of Shri B. K. Arora, Assistant Manager and other witnesses. It is obvious that the evidence discussed by him was not recorded by him but was recorded by Shri K. C. Nandkeolyar, MW. 1. The enquiry conducted by Shri K. C. Nandkeolyar, MW. 1 was set aside and *de novo* enquiry by Shri B. M. Lall, MW. 2 was ordered by the Manager, as admitted by the employers in para 3(f) of their statement and the complaint of affected workman No. 1 against Shri K. C. Nandkeolyar, MW. 1 was that he did not record evidence and conduct the enquiry

properly. For these reasons the report, Ext. M 50 of Shri B. M. Lall, MW 2 based upon the evidence not recorded by him but recorded by Shri K. C. Nandkeolyar has no probative value and as such, the findings arrived at by Shri B. M. Lall, MW. 2 were perverse and without any basis. Consequently, the dismissal of affected workman No. 1 as a result of the domestic enquiry cannot be up-held. In their statement the workmen had pleaded that affected workman No. 1 was a Vice President of the Bihar Koyla Nazdoor Sabha at the colliery branch, that he was a popular trade union worker and that his activities were much disliked by the management. It also stated that affected workman No. 1 was dismissed twice previously and was re-instated by the intervention of the Conciliation Officer(C) Dhanbad. It was also mentioned that the management had issued two charge-sheets Nos. 80/65/N and 100/65/N previously against affected workman No. 1 but nothing was established against him during the domestic enquiry. The employers did not deny the above allegations specifically. On the other hand it is stated in para 3(i) of the statement that on previous occasions action was taken against affected workman No. 1 by the management but these actions were modified when approached to directly or through the Industrial Relations Machinery. Affected workman No. 1 examined himself as WW 1 and proved Ext. W 4, an application submitted by him and 80 other workmen to the Chief Agent of the employers on 27th April, 1965, complaining that when they demanded extra payment for lead, etc. the management threatened their leader, affected workman No. 1 with serious consequences, viz., transfer and dismissal. It was also mentioned in the letter that previously also the management wrongfully dismissed and transferred affected workman No. 1 because of his lawful trade union activities. Ext. W. 5 is the postal receipt and Ext. W. 6 is the acknowledgment of the letter which was sent to the Chief Agent by a registered post. No material is brought on record to rebut the above evidence. This gives rise to the inference that affected workman No. 1 was dismissed with a view to victimise him for his trade union activities.

5. It is categorically admitted by affected workman No. 2 that he went on sanctioned leave of 16 days with effect from 19th May, 1965 and he was to report for duty on 28th May, 1965. But he reported for duty on 15th July, 1965. The contention of the employers is that when affected workman No. 2 did not return for duty within 8 days of the expiry of his sanctioned leave he had lost lien on his appointment automatically under para 11 of the Certified Standing Orders, Ext. M. 49. Para 11 of the Certified Standing Orders, Ext. M. 49 clearly states that if the employee does not return within 8 days of the expiry of the leave he loses his lien on his appointment. The question of consideration of the explanation submitted by him for his over-stay arises only if he returns within 8 days of the expiry of the leave. This view is supported by the Supreme Court in its decision, National Engineering Industries, Ltd., Jaipur *V* Hanuman (1967-II-L.L.J. 883) and the decisions of the Patna High Court in C.W.J.C. 779/67 dated 2nd August, 1968 in *Pure Kustore Colliery Vs. General Secretary, Khan Mazdoor Congress and others and C.W.J. C. 106/68 dated 9th August, 1968 in Malkera Colliery Vs. Presiding Officer, Central Government Industrial Tribunal (No. 2) and others. In this view the employers were justified in terminating the services of affected workman No. 2 and placing his name on the "Badli" list.*

6. I, therefore, hold that the management of Bhowra Colliery of Messrs Bhowra Kankanee collieries was not justified in dismissing affected workman No. 1, Shri Subedar Kurmi, Pick Minor with effect from 4th July, 1965 and as such he is entitled to his wages and other emoluments and benefits with effect from 4th July 1965 till the date of his actual reinstatement as though his services from the above date have been continuous, but the management was justified in terminating lien of affected workman No. 2, Shri Jadunandan Dubey, Chute Operator, with effect from 27th July 1965 and placing his name on the "Badli" list. He is not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO,

Presiding Officer,

Central Government Industrial Tribunal (No. 2) Dhanbad.

[No. 2/17/66-LR-II.]

S.O. 3472.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudem Collieries and their workmen which was received by the Central Government on the 16th September, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT:

Sri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE No. 41 OF 1966

BETWEEN—

Workmen of Singareni Collieries Co. Ltd., Kothagudem.

AND

Employers of Singareni Collieries Co. Ltd., Kothagudem.

APPEARANCES:

Sri A. Laxman Rao, Advocate—for the Workmen.

Sri K. Srinivasamurthy—for the Management.

AWARD

The Government of India in its Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) had, by Order No. 7/20/66-LR II, dated 4th August, 1966, referred this dispute to me for adjudication. The issue as per schedule annexed to the Notification is this:

Whether having regard to the nature of the duties performed by Sri Gogu Narasimha Murthy and others in the belt section at No. 7 incline, their demand for higher categories is justified? If so, from what date?

2. The Singareni Collieries Mazdoor Sangh, Kothagudem, is party to the reference. The statement of claims is filed by and under the signature of Mr. S. Rami Reddy, the General Secretary of the Sangh. According to the issue the claimants are Gogu Narsimha Murthy and "others". The number of the others is six. The names of the remaining six are given in the statement of claims. They are Koduri Veeraswamy, John Kotaiah, Vannala Babu, Mohd. Yasin, Mogili Krishnamurthy and Heeralal Kori. The case of the claimants is that they had been working as belt fitters in the machine mining section (belt) of V.K. No. 7 incline from the year 1959, their duties being said to include repair of gear heads, shifting and erection of belts, and repairing and maintenance of belts, shakers and tippers. In view of the duties claimed to be performed by them, the claim is that the claimants should have been placed in category VII as belt fitters instead of being designated as switch boys and being paid wages of only category III. It is stated that those performing similar duties at No. 5 incline have been placed in category VII. It is therefore prayed that the company be directed to designate the claimants as belt fitters and to pay them category VII wages "with retrospective effect, i.e., from the date they have been working as belt fitters".

3. The Management filed counter. It is stated that the Mazdoor Sangh did not have *locus standi* to raise an industrial dispute in respect of the claim put forward on behalf of the claimants. It is pointed out that the Muzumdar Award had been terminated and that any lawful claim cannot therefore be advanced in respect of categories in that Award. It is denied that any of the claimants had been working as belt fitters from the year 1959, and it is pointed out that they had been working under "different designations" of category III of that Award. The counter does not clarify what those different designations were. It is stated that the claimants were not appointed as belt fitters and that they have not been performing the duties of belt fitters. It is therefore pointed out that the claimants had been properly placed in category III of the Coal Award and that they were not entitled to be placed in category VII. The counter does not say what were the duties actually performed by the claimants so that they could be said to be rightly placed in category III although it is generally stated that these claimants were performing "the normal and substantive duties" of workmen in category III. Lastly, it is stated that whenever any of the claimants was appointed to act as belt fitter for short periods, he was paid acting allowance therefor.

4. Three witnesses, W.W. 1 to W.W. 3, were examined on behalf of the claimants. W.W. 1, Mohd. Yasin, is one of the claimants. Two witnesses, M.Ws. 1 and 2, were examined for the Management. M.W. 1, D. S. Sadhvani, is Assistant Engineer at Venkatesh Khani (V.K.) No. 7 incline. M.W. 2, M. Venkateswara Rao, is also Assistant Engineer there, having joined there on 8th August, 1967. Exhibits W. 1 to W. 14 were marked on the side of the claimants. Exhibit M. 1 and Exhibits M. 2 to M. 2(e) were marked on the side of the Management. I will refer to the relevant documents during the course of discussion.

5. It will be noted that the counter of the Management is that the Singareni Collieries Mazdoor Sangh did not have *locus standi* to raise an industrial dispute in respect of the claim put forward by the claimants in the reference. Any reason is not given in the counter in support of such a plea. That plea is therefore negatived. It is next pointed out in the counter that categories III and VII referred to in the statement of claims are those of the Mazumdar Award, and that inasmuch as that Award had stood terminated, it was not any more competent for the claimants to put forward claims in relation to those categories. It will be noted that the claim of the claimants is that they had been working as belt fitters from the year 1959 and that therefore they should be given wages that pertain to category VII, that being the category in which the belt fitters were in accordance with the Mazumdar Award. In effect what the claimants claim is that they should be paid wages that pertain to that category because they claim to have been performing duties of that category. Mr. K. Srinivasamurthy for the Management admits that if the claimants prove that they had been performing duties similar to duties performed by workers in category VII, they could put forward the claim that they should be paid wages which workers in that category are paid. It is therefore a question of fact whether or not the claimants had been performing such duties. Having regard to the tenor of the issue in the notification, the onus is upon the claimants to prove that they had been performing such duties.

6. One claimant, Mohd. Yasin, was examined as W.W. 1. There are altogether seven claimants. I have given their names elsewhere. During the last week of the year 1966 the witness was transferred to No. 5 incline. Prior to that he was working at No. 7 incline. The remaining six claimants continued to work at No. 7 incline. The case in the statement of claims is that from the year 1959 the seven claimants have been working as belt fitters for which, it is pointed out, they should have been placed in category VII, and it is complained that the Company had, instead of doing so, wrongly designated them as switch boys and had been unjustly paying them category III wages. W.W. 1 stated that he and the other claimants had actually been doing the work of fitters but that the Company had designated them as switch boys. The witness said that when they made representations about it, the Management had issued the notice Ex. W. 1, dated 24th September, 1964, and that prior thereto, and even subsequently, they had continued to work as fitters. Ex. W. 1 is notice addressed to six of the claimants (the name of John Kotiah is not there). It is as below :

In accordance with Section 9A of the I.D. Act, 1947, we beg to inform you that it is our intention to effect the change specified in the annexure to this letter with effect from 16th October, 1964.

ANNEXURE :

Work as switch boy, your original job as designated.

The Assistant Engineer, M.W. 1, stated that some of the claimants were appointed in the year 1958 and the others in 1959, and that their appointment was as switch boys in category III. The witness said that fitter helpers also are in category III and that switch boys and C. & B. drivers are transferred as fitter helpers. It is common ground that switch boys, C. & B. drivers and the fitter helpers were in category III of the Mazumdar Award. M.W. 1 explained how the notice Ex. W. 1 came to be issued. The claimants were working as fitter helpers at the stage at which the notice Ex. W. 1 was issued. While so, it was found that fitter helpers were not needed any more, and, instead, fitter mazdoors were taken. Therefore the claimants were sent back as switch boys and C. & B. drivers. Coming back to the notice Ex. W. 1 we find that two of the claimants, Kodury Veeraswamy and Gogu Narasimhamurthy, are described in it as C. & B. drivers and (John Kotiah not being mentioned there) the remaining four claimants are described as switch boys. When the Management did not feel it necessary to have fitter helpers and felt that it could well do with fitter mazdoors in their place, it had put the six persons mentioned in the notice Ex. W. 1 back into the designations mentioned against their names, viz., either as C. & B. driver or as switch boy. To put them back into the designations to which they actually belonged, I do not think it was really necessary for the Management to have issued a notice under section 9A of the I.D. Act. It had presumably done that out of abundant caution. As I said, it is for the claimants to prove that they had been working as belt fitters prior to the notice Ex. W. 1 and even subsequently, notwithstanding that notice. Mr. Ramireddy for the claimants argued that the notice Ex. W. 1 could not have been under section 9A unless prior to that the claimants were working as belt fitters. Such an inference would not necessarily follow, and it is for the claimants to prove that prior to that notice they were working as belt fitters which entitles them to category VII wages, and even subsequently. Presumably taking advantage of the mention of section 9A in the notice Ex. W. 1, the claimants sent a representation Ex. W. 2, dated 7th October, 1964 to the Management that having regard to the actual duties performed by them "since several years" they should be confirmed as belt fitters. Ex. W. 3, dated 7th October is the representation in this behalf made by the Union on behalf of the claimants Ex. W. 5

dated 24th June, 1965 is further such representation on behalf of the claimants. By letter Ex. W. 6 dated 6th June, 1965 the Management informed the claimants that the matter is being attended to.

6. W.W. 1, Mohd. Yasin, merely contended himself by generally stating that he and the other claimants had always been working as belt fitters and not as switch boys or C. & B. drivers although designated as such. He did not specify what were the duties that were performed by them as belt fitters so as to enable them to claim the wages payable to belt fitters in category VII. It will be noted that the case of the Management is that the claimants were not appointed as belt fitters and were not working as belt fitters, but that however when any of them was given a chance to act as belt fitter he was paid acting allowance. W.W. 1 admitted in cross-examination that the claimants were being paid acting allowance as fitters. He stated that he could not say for how many days he had worked as fitter in each of the years 1962, 1963, 1964, 1965 and 1966 and that he could not say what the position was about the other claimants. It was specifically put to W.W. 1 in his cross-examination that he had acted for two days as belt fitter in the year 1962, for 6 days in the year 1963, for two days in the year 1964, for six days in 1965 and for one day in 1966. In support of the Management's contention that except that the claimants were given acting allowance whenever they acted as belt fitters, they were not working as belt fitters, M.W. 1 filed Ex. M. 1 which is extract from the wage-sheets for the years 1962 to 1966. Although this witness was cross-examined by Mr. Ramireddy, the correctness of the extract Ex. M. 1 was not challenged. The number of days for which W.W. 1 Mohd. Yasin had acted as fitter and for which he was given acting allowance is seen in Ex. M. 1 as suggested to him in his cross-examination. During the years 1962 to 1966 he had acted as fitter for altogether 17 days. During the same years Mogili Krishnamurthy had acted for 76 days in all, Gogu Narasimhamurthy had acted for 146 days in all, Heeralal Cori had acted for 61 days in all, Koduri Veeraswamy had acted for 73 days in all, Vannala Babu had acted for 21 days and J. John Kotiah had acted for 4 days in all. When that is so, any question of any of the claimants working continuously as belt fitters either from the year 1958 or from the year 1959 does not arise. W.W. 1 had given two instances of Narasimhamurthy and Veeraswami acting in the place of the Chargehand Guru Prasad. This is seen from Exs. W. 7 and W. 8, Ex. W. 7 being in respect of Narasimhamurthy and Ex. W. 8 being in respect of Veeraswamy. W.W. 1 would say that it is only a fitter who acts in the place of a Chargehand when he is on leave. The witness means to say that it was because Gogu Narasimhamurthy and Mogili Veeraswamy were working as fitters that they were given the chance to act in the place of the Chargehand Guru Prasad. M.W. 1 admitted that as per Exs. W. 7 and W. 8 the two claimants mentioned above have acted in the place of the Chargehand who was then absent. The witness explained that on those occasions the fitters also may have been absent so that one of the claimants was called upon to act for the Chargehand. This explanation is reasonable because otherwise any question of any of the claimants being given acting allowance on the occasions they had acted as fitters would not arise. As I pointed out, for the five year period ranging from 1962 to 1966 Mogili Krishnamurthy had acted for a total of 76 days and Gogu Narasimhamurthy had acted for a total of 146 days. Coming back to the testimony of W.W. 1, this is what he said at the end of his cross-examination:

There is a fitter in every shift. The Chargehand would be in the general shift. Although there is a fitter in each shift, we too were called upon to do fitters jobs.

What the witness had stated above is significant. M.W. 1 had said that there is one fitter for each shift. Now W.W. 1 Mohd. Yasin admits that it is so, but he would say that although there is one fitter in each shift "we too were called upon to do fitters jobs". When the witness said so, surely he cannot mean to say that the number of fitters for each shift was increased. When the witness said that although there is one fitter for each shift, "we too were called upon to do fitters jobs", what he really means to say is that now and then one of the claimants was given acting chance as fitter when the regular shift fitter was on leave or was absent. It will be seen that earlier in his cross-examination W.W. 1 had said that "we were being paid acting allowance as fitters". Nothing turns upon the testimony of W.W. 1, nor upon the documents I have referred to so far, in support of the case of the claimants. On the other hand, some of the admissions made by W.W. 1 in his cross-examination support the case of the Management.

7. The next witness for the claimants is W.W. 2, Guru Prasad, who is Chargehand at No. 7 Incline for the belt section. He stated that the claimants, whose names he gave, were doing fitter's jobs in the belt section at No. 7 Incline, that they had worked under him and also under the Shift Incharges, that they were doing belt joints and erection jobs and that they were also attending to break-down repairs. The witness said that any of the 7 claimants did not at any time work as switch boys at No. 7 Incline. If as the witness said, any of the claimants did not work as switch boys and C. & B. drivers, there

had to be a separate set of workers working as such. The witness said there was such a separate set. When asked about it in cross-examination, viz., as to who were those separate set of switch boys and C. & B. drivers, the witness said that he did not know their names, not even of those who work in his shift. If there was such a separate set of switch boys and C. & B. drivers, the witness ought to know their names. It is clear that there was no such separate set of workers, and that it was the claimants who were working as such. The witness admitted in his cross-examination that when a worker acts in a higher grade it is evidenced by an acting slip. We have such instances as per Exs. W. 7 and W. 8. This witness also admitted that there is one fitter in each shift in the belt section. He said that he could not say which of the claimants had acted as belt fitters and for how many days in a particular year. Thus it is seen that we are back to the position that it was merely a case of the claimants now and then acting as belt fitters and being paid acting allowance. W.W. 2 tried to be little cautious about this position. This is what he said in his cross-examination:—

All the claimants had worked in my shift at one time or the other. They were being given acting allowance only when any of them could be shown acting as fitter in the place of the absentee fitter.

There is record maintained when a category III worker is called upon to act as a belt fitter because he will have to be paid acting allowance. There would be no question of the payment of acting allowance being made "only when any of them could be shown as acting as fitter in the place of the absentee fitter". Earlier in his cross-examination the witness gave the procedure in respect of what is done if a fitter is absent. The witness reports about it to the Engineer and the Engineer directs some one to act as fitter, and the witness directs such person to act as fitter in the place of the absentee fitter. The testimony of W.W. 2 does not advance the case of the claimants any more than that of W.W. 1 had done. M.W. 1 had testified that any of the claimants were not appointed as belt fitters but their appointments were as switch boys and C. & B. drivers. He filed the service cards of the claimants which are marked as M. 2 series. His testimony is borne out by those documents, namely, that they have been appointed as switch boys. M.W. 1 gave the respective duties of the belt fitters and of the switch boys and the C. & B. drivers. It was not suggested to the witness in cross-examination that any of the claimants had performed the duties which were performed by the belt fitters. M.W. 2, the other Assistant Engineer, also testified that the claimants do not do jobs of belt fitters but that they had been doing jobs of switch boys, viz., operating conveyors, tipplers and ahskers, cleaning spilled coal near the conveyors and switching on or off the conveyor according to the signals they receive. At the end of cross-examination it was merely suggested to M.W. 2 that the seven claimants did not work as switch boys and C. & B. drivers and that they were always working as belt fitters. The witness denied the suggestion. I do not think that there is any merit in that suggestion because it is clear from documentary evidence as well as from admissions made by W.Ws. 1 and 2 that it was only now and then that the claimants were acting as belt fitters and that for such acting periods they were being paid acting allowance. There is the last witness for the claimants, W.W. 3 Sharfuddin. He is a fitter in the belt section at No. 7 Incline. In the year 1963 this witness along with two others, Pallam Setti and Shick Hussain, were designated as fitters in category VII. The witness said that prior to the year 1963 he and the other two were designated as C. & B. drivers although they were actually working as belt fitters, and that so was the case with the 7 claimants also. The witness added that subsequent to the year 1963 the 7 claimants had been doing the same duties as done by himself and the two others. The witness means to say that like he and the two others, the seven claimants also should have been put in category VII. If so, the Management would have considered the case of the claimants also for promotion to category VII. The suggestion is not that the Management had been discriminatory in this behalf. I do not think any reliance can be placed upon the evidence-in-chief of W.W. 3. The witness said in cross-examination that prior to the year 1963 he was given acting allowance whenever he was asked to work in the place of the Shift Incharge. If even prior to the year 1963 the witness had been continuously working as a belt fitter, there was no question of his being given acting allowance. Further down in his cross-examination W.W. 3 said that there are two fitters in his shift. Presumably the idea behind this statement is that if there are two fitters in a shift, one of the claimants could well be the additional fitter. But we have in the testimony of W.Ws. 1 and 2, apart from the fact that we have it in the testimony of M.W. 1, that there is only one fitter in each shift. The testimony of W.W. 3 is not of any avail in support of the case of the claimants.

8. It has been stated in the statement of claims that the claimants should be given category VII wages just as it was done at No. 5 Incline. Mr. Ramireddy drew my attention to Ex. W. 11, dated 23rd January, 1964. It is a Memorandum of Settlement between the Management and General Secretary of the A.P. Colliery Mazdoor Sangh by which certain workers at No. 5 Incline had been promoted from category IV to category VII as fitters. Ex. W. 11 was preceded by Ex. W. 10, dated 8th January, 1963 by which certain demands were raised in respect of workers at No. 5 Incline. Subsequent to

Ex. W. 10 there had been protracted negotiations. The matter was ultimately settled as per Ex. W. 11. As I said, Ex. W. 11 is in respect of workers at No. 5 Incline. The claimants in the instant case are workers at No. 7 Incline, one of them (W.W. 1) had been transferred to No. 5 Incline after the reference. Ex. W. 11 does not necessarily provide an analogy for what is demanded to be done at No. 7 Incline. At No. 5 Incline it was a case of promotion from category IV to category VII. In the instant case the demand is for wages as per category VI from category III. There is no evidence that the situation that obtained at No. 5 Incline, and which culminated in the Memorandum of Settlement Ex. W. 11, could be equated to what obtained at the No. 7 Incline. On the facts in the case, I am satisfied that Ex. W. 11 cannot be relied upon by the claimants in support of the demand.

9. My finding under the issue in the reference is that the nature of duties performed by Gogu Narasimhamurthy and the six other claimants in the belt section at No. 7 Incline are not such as to entitle them to demand wages of higher category, viz., category VII. This issue is found against the claimants. They are not entitled to any relief in this behalf.

AWARD passed accordingly.

Given under my hand and the seal of the Tribunal, this the 31st day of August, 1968.

(Sd.) M. NAJMUDDIN,
Industrial Tribunal.

APPENDIX OF EVIDENCE

Witnesses examined for:

Workmen:

W.W.1: Mohamed Yasin.
W.W.2: Guruprasad.
W.W.3: Sharfuddin.

Employers :

M.W.1: D.S. Sadhvani.
M.W.2: M. Venkateswararao.

Documents Exhibited for Workmen

- Ex.W1: Notice dated 24-9-64 issued by the Manager, No. 7 Incline to the claimants regarding change intended to effect in their service conditions.
- Ex. W2: Letter dt. 7-10-64 of the claimants to the Manager, V.K. 7 Incline regarding their disagreement to the proposed change of service conditions.
- Ex. W3: Representation dt. 7-10-64 of the A.P.C.M.S. to the Manager, No. 7 Incline regarding the disagreement of the workmen for the proposed change in the service conditions of claimants.
- Ex. W4: Letter dated 18-8-65 of the Manager, V. K. & 7 Incline to some of the claimants regarding the disciplinary action to be taken for refusal to comply with the instructions of the Engineer.
- Ex.W4(a): Do. Do.
- Ex W4(b): Do. Do.
- Ex.W4(c): Do. Do.
- Ex. W5: Representation dt. 24-6-66 of the workmen under grievance procedure to the Manager, 7 Incline.
- Ex. W6: Letter dt. 6-7-65 of the Manager, 7 Incline, in reply to the representation of workmen under grievance procedure.
- Ex. W7: Acting chit dt. 14-3-64 regarding Sri Gogu Narasimhamurthy, Fitter acting in the place of the Chargehand Sri Guru Prasad.
- Ex. W8: Acting chit dt. 7-3-64 regarding Sri Koduri Veeraswamy, Fitter, acting in the place of the Chargehand Sri Guru Prasad.
- Ex. W9: Letter dt. 13-10-64 of the Manager, 7 Incline, to the claimants denying their contention of having worked as Fitters.
- Ex. W10. Representation of Union dt. 8-1-63 addressed to the Management, S. C. Co. Ltd. Kothagudem, regarding appropriate category to Belt Fitters of No. 5 Incline.
- Ex.W11: Memorandum of Settlement arrived at between the Management and A. P. Colliery Mazdoor Sangh on 23-1-64 in respect of promotions.
- Ex.W12: Appointment letter of competent persons dt. 8-4-58 issued to T. Rayamallu by the Management.
- Ex.W13: Appointment letter of competent persons dt. 12-4-58 issued to M. Pullaiah by the Management.
- Ex.W14: Charge-sheet dt. 12-10-62 issued by the Management calling explanation to Sadullah Khan.

Documents Exhibited For Employers.

- Ex. M1. Summary of acting allowance of seven workmen.
~~Ex. M2:~~ Identity and service card of Md. Yaseen.
 Ex. M2(a) Identity and service card of M. Krishnamurthy.
 Ex. M2(b) Identity and service card of Gogu Narasimhamurthy.
 Ex. M2(c) Identity and service card of Vannala Baboo.
 Ex. M2(d) Identity and service card of Heeralal Cori.
 Ex. M2(e) Identity and service card of Koduri Veeraswamy.

(Sd.) M. NAJMUDDIN,
 Industrial Tribunal.

[No. 7/20/66-LRII.]

ORDER

New Delhi, the 23rd September 1968

S. O. 3473.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ghusick Muslia Collieries and West Ghusick Coal Company Limited, Post Office kalipahari, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Messrs Ghusick and Muslia Collieries Limited and West Ghusick Coal Company Limited were justified in superannuating the following 26 workmen with effect from the 24th February, 1968. If not, to what relief are the workmen entitled?

Sl. No.	Name and Designation.	Name of the Colliery.
1	2	3
1	Sri Kamakhya Chand, Line Mistry.	Radhamadhabpur Colliery.
2	Sri Bahadur, Night Guard	"
3	Harishi Gorai, Body Searcher	"
4	Badri Narayan Singh, Peon	"
5	Upendra Nath Karmakar, Electric Fitter.	"
6	Mahabir Paswan, Sr. Trammer	"
7	Gajo Paswan, On-setter	"
8	Ramrup Nunia, Sr. Trammer	"
9	Sadaugar Nunia, Banksman	"
10	Ajodhya Paswan (1), Sr. Trammer.	"
11	Saw Dhari Gorari, Night Guard.	"
12	Bhupati Nath Barman, Attendance Clerk	"
13	Kesho Dhuri, Ug. Trammer.	"
14	Natha Bauri, Line Mistry	"
15	Kumaresh Banerjee, Store-keeper.	"
16	Rama Paswan, Sr. Trammer	"
17	Damadkar Karmakar, Head Fitter, Workshop	"

1	2	3
18	Rash Behari Hazru, Fitter	Radhamadhabpur Colliery
19	Ram Charit Turi, Fitter.	"
20	Mahindra Karmakar, Boiler Mistry	"
21	Pankhi Roy, Switch Attendance	"
22	Mahadeb Singh, Attendance Clerk	Ghusick Colliery
23	Ramapade Hazra, Auditor Central Office	"
24	Amrit Barohi, Carpenter	Kalipahari Colliery
25	Suresh Palit, Cashier.	New Ghusick Colliery.
26	G. J. Mackartich General Assistant.	Kalipahari Colliery.

[No. 6/38/68-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 23rd September 1968

S. O. 3474.—In exercise of the powers conferred by sub-sections (3) and (4) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948) the Central Government hereby appoints the following persons as members of the Madras Dock Labour Board and nominates Shri V. Karthikeyan as Chairman thereof, namely:—

Members representing the Central Government

- (1) Shri V. Karthikeyan,
Chairman, Madras Port Trust.
- (2) The Deputy Chairman, Madras Dock Labour Board.
- (3) The Regional Labour Commissioner (Central), Madras.
- (4) The Assistant Commissioner of Labour,
Government of Madras, Madras.

Members representing the dock workers

- | | | | |
|---------------------------|---|-----------|--|
| (1) Shri A. S. K. Iyengar | } | | Representatives of the Madras
Harbour Workers' Union. |
| (2) Shri S. Thangasami | | | |
| (3) Shri S. M. Narayanan | } | | Representatives of the Madras
Port and Dock Workers Congress. |
| (4) Shri N. Selvaraj | | | |

Members representing the employees of dock workers and Shipping Companies

- | | | | |
|--------------------------------|-----------|-----------|---|
| (1) Shri P. Gopalathnam | } | | Representatives of the Madras Stevedores'
Association. |
| (2) Shri R. K. Varadanarayanan | | | |
| (3) Shri T. Wise | | | Representative of the Madras Chamber of
Commerce. |
| (4) Shri G.P.S. Bhalla. | | | |

[No. 54/12/67-Fac. II.]

New Delhi, the 25th September 1968

S.O. 3475.—In exercise of the powers conferred by sub-sections (3) and (4) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby appoints Shri V. Srinivasachary, Chairman, Mormugao Port Trust as a member of the Mormugao Dock Labour Board vice Shri B. K. Advani, nominates him to be the Chairman of the said Board, and makes the following amendments in the notifications of the Government of India in the Ministry of Labour, Employment and Rehabilitation

(Department of Labour and Employment) No. S.O. 2930 dated the 31st August, 1968, namely :—

In the said notification,

- (i) in the opening paragraph, for the words and letters "Shri B. K. Advani", the words and letters "Shri V. Srinivasachary" shall be substituted,
- (ii) under the heading "Members representing the Central Government" for the entry against item (1), the following entry shall be substituted, namely:—
"Shri V. Srinivasachary, Chairman, Mormugao Port Trust."

[No. 57/8/68-Fac.II.]

C. RAMDAS, Under Secy.

(Department of Labour & Employment)

New Delhi, the 24th September 1968

S.O. 3476.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 30th September, 1968, section 6 of the said Act shall, in its application to Messrs Festo Elgi Private Limited, India House, Trichy Road, Coimbatore-18 be subject to the modification that for the words "six and a quarter per cent", the words "eight percent" were substituted.

[No. 8(110)/68-PF.II.]

S.O. 3477.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Festo Elgi Private Limited, India House, Trichy Road, Coimbatore-18 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment with effect from the 30th September, 1968.

[No. 8/110/68-PF. II.]

S.O. 3478.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 30th September, 1967, section 6 of the said Act shall, in its application to the Metal Serap Trade Corporation Limited, P-34 India Exchange Place, Calcutta-1 be subject to the modification that for the words 'six and a quarter per cent', the words 'eight percent' were substituted.

[No. 8(106)/68-PF.II.]

S.O. 3479.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as The Metal Serap Trade Corporation Ltd., P-34, India Exchange Place, Calcutta-1 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 30th September, 1967.

[No. 8/106/68/PF.II.]

S.O. 3480.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 1st August, 1968, section 6 of the said Act shall, in its application to the Milk Cooperative Society Limited Aramboli, Kanyakumari District, Madras State be subject to the modification that for the words 'six and a quarter per cent', the words 'eight percent' were substituted.

[No. 8(112)/68-PF.II.]

S.O. 3481.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as the Milk Cooperative Society Ltd., 3960, Aramboli, Kanyakumari District, Madras State have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of August, 1968.

[No. 8/112/68-PF.II.]

S.O. 3482.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 1st April, 1968, section 6 of the said Act shall, in its application to Messrs P. T. Sampathkumaran and Company, Chartered Accountants, 193, Mount Road, Madras-2 be subject to the modification that for the words "six and a quarter percent" the words "eight percent" were substituted.

[No. 8(119)/68-PF. II.]

S.O. 3483.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs P. T. Sampathkumaran and Co., Chartered Accountants, 193 Mount Road, Madras-2, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of April, 1968.

[No. 8/119/68-PF. II.]

S.O. 3484.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Elite Produce, Temple Road, West Hill, Kozhikode-5, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment with effect from the 30th day of September, 1968.

[No. 8/120/68-PF. II.]

S.O. 3485.—Whereas M/s. Chhotabhai Jethabhai Patel Tobacco Products Company Limited, Mota Por, Nadiad, Gujarat (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952); (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the said Act, and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act, and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the

operation of all the provisions of the said Scheme and in pursuance of sub-section (3) of the said Section 17, the Central Government hereby directs that,—

- (a) the employer in relation to the said establishment shall pay within fifteen days of the close of the month to the Employees' Provident Fund, inspection charges at the rate of 0.09 per cent. (zero point zero nine per cent.) of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concession admissible thereon) for the time being payable to the employees of the said establishment who would have become members under the said Scheme but for this exemption;
- (b) the said employer shall invest the provident fund contributions in accordance with the directions issued by the Central Government from time to time.

THE SCHEDULE

1. The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe.
2. The employer shall furnish to each employee an Annual Statement of Account or Pass Book.
3. All expenses involved in the administration of the Fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc, shall be borne by the employer.
4. The employer shall display on the Notice Board of the establishment a copy of the Rules of the Fund as approved by the appropriate Government and, as and when amended alongwith a translation of the salient points thereof in the language of the majority of the employees.
5. Where an employee who is already a member of the Employees' Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment, the employer shall immediately enrol him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.
6. The employer shall enhance the rate of provident fund contribution appropriately if the rate of provident fund contributions for the class of establishments in which his establishment falls is enhanced under the Employees' Provident Funds Act, 1952 so that the benefits under the provident fund Scheme of the establishment shall not become less favourable than the benefit provided under the Employees' Provident Funds Act, 1952.
7. The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Provident Fund Commissioner within 3 months of the close of the year.
8. No amendment of the Rules of the provident fund shall be made without the previous approval of the Regional Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employees, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

[No. 11/80/68-PF. II.]

S.O. 3486.—Whereas M/s. Atlas Copco (India) Private Limited, Sveanagar, Dapodi, Poona-12 (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952);

And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the said Act, and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act, and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme and in pursuance of sub-section (3) of the said Section 17, the Central Government hereby directs that,

- (a) the employer in relation to the said establishment shall pay within fifteen days of the close of the month to the Employees' Provident Fund, inspection

charges at the rate of 0.09 per cent (zero point zero nine per cent) of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concession admissible thereon) for the time being payable to the employees of the said establishment who would have become members under the said Scheme but for this exemption;

- (b) the said employer shall invest the provident fund contributions in accordance with the directions issued by the Central Government from time to time.

THE SCHEDULE

1. The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe.

2. The employer shall furnish to each employee an Annual Statement of Account or Pass Book.

3. All expenses involved in the administration of the Fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc., shall be borne by the employer.

4. The employer shall display on the Notice Board of the establishment a copy of the Rules of the Fund as approved by the appropriate Government and, as and when amended along with a translation of the salient points thereof in the language of the majority of the employees.

5. Where an employee who is already a member of the Employees' Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment, the employer shall immediately enrol him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.

6. The employer shall enhance the rate of provident fund contribution appropriately if the rate of provident fund contributions for the class of establishments in which his establishment falls is enhanced under the Employees' Provident Funds Act, 1952 so that the benefits under the provident fund Scheme of the establishment shall not become less favourable than the benefit provided under the Employees' Provident Funds Act, 1952.

7. The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Provident Fund Commissioner within 3 months of the close of the year.

8. No amendment of the Rules of the provident fund shall be made without the previous approval of the Regional Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employee, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

[No. 11/1/68-P F.II.]

S.O. 3487.—Whereas M/s. Marketing Advertising Associate Private Limited, 143, Mahatma Gandhi Road, Bombay (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952); (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the said Act, and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act, and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme and in pursuance of sub-section (3) of the said Section 17, the Central Government hereby directs that,—

- (a) the employer in relation to the said establishment shall pay within fifteen days of the close of the month to the Employees' Provident Fund, inspection

charges at the rate of 0.09 per cent (zero point zero nine per cent) of the pay (basic wages, dearness allowance retaining allowance, if any, and cash value of food concession admissible thereon) for the time being payable to the employees of the said establishment who would have become members under the said Scheme but for this exemption;

- (b) the said employer shall invest the provident fund contributions in accordance with the directions issued by the Central Government from time to time.

THE SCHEDULE

1. The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe.
2. The employer shall furnish to each employee an Annual Statement of Account or Pass Book.
3. All expenses involved in the administration of the Fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc, shall be borne by the employer.
4. The employer shall display on the NOTICE BOARD of the establishment a copy of the Rules of the Fund as approved by the appropriate Government and, as and when amended alongwith a translation of the salient points thereof in the language of the majority of the employees.
5. Where an employee who is already a member of the Employees Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment, the employer shall immediately enrol him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.
6. The employer shall enhance the rate of provident fund contribution appropriately if the rate of provident fund contributions for the class of establishments in which his establishment falls is enhanced under the Employees' Provident Funds Act, 1952 so that the benefits under the provident fund Scheme of the establishment shall not become less favourable than the benefit provided under the Employees' Provident Funds Act, 1952.
7. The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Provident Fund Commissioner within 3 months of the close of the year.
8. No amendment of the Rules of the provident fund shall be made without the previous approval of the Regional Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employees the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

[No. 11/67/67-PF.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

ORDER

New Delhi, the 24th September 1968

S.O. 3488.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of M/s Bikaner Gypsums Limited, Bikaner and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal, with Shri Gopal Narain Sharma as Presiding Officer with Headquarters at Jaipur and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Whether the management of M/s Bikaner Gypsums Limited, Bikaner was justified in terminating the services of Shri Nathoo Khan Mazdoor, T. No. 2074, Jamsar Mines of M/s Bikaner Gypsums Limited, Bikaner with effect from the 22nd September, 1964? If not, to what relief is he entitled?

[No. 24/29/68-LRI]

O. P. TALWAR, Under Secy.